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Attorneys for Plaintiff,
Alvaro Mendoza

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Alvaro Mendoza,

Plaintiff,

vs.

CMI Group; and DOES 1-10, inclusive,

Defendants.

Case No.:

COMPLAINT

For this Complaint, the Plaintiff, Alvaro Mendoza, by undersigned counsel,
states as follows:

JURISDICTION

1. This action arises out of Defendants' repeated violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq. ("FDCPA"), and the invasions of Plaintiff's personal privacy by the Defendants and its agents in their illegal efforts to collect a consumer debt.

2. Original and supplemental jurisdiction exists pursuant to 28 U.S.C. §§ 1331, 1367.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that Defendants transact business here and a substantial portion of the acts giving rise to this action occurred here.

PARTIES

4. The Plaintiff, Alvaro Mendoza (hereafter "Plaintiff"), is an adult individual residing in Phoenix, Arizona, and is a "consumer" as the term is defined by 15 U.S.C. § 1692a(3).

5. The Defendant, CMI Group (hereafter "CMI"), is a company with an address of 4200 International Parkway, Carrollton, Texas 75007-1906, operating as a collection agency, and is a "debt collector" as the term is defined by 15 U.S.C. § 1692a(6).

6. Does 1-10 (the "Collectors") are individual collectors employed by CMI and whose identities are currently unknown to the Plaintiff. One or more of the Collectors may be joined as parties once their identities are disclosed through discovery.

7. CMI at all times acted by and through one or more of the Collectors.

ALLEGATIONS APPLICABLE TO ALL COUNTS

A. The Debt

8. The Plaintiff incurred a financial obligation (the “Debt”) to an original creditor (the “Creditor”).

9. The Debt arose from services provided by the Creditor which were primarily for family, personal or household purposes and which meets the definition of a “debt” under 15 U.S.C. § 1692a(5).

10. The Debt was purchased, assigned or transferred to CMI for collection, or CMI was employed by the Creditor to collect the Debt.

11. The Defendants attempted to collect the Debt and, as such, engaged in “communications” as defined in 15 U.S.C. § 1692a(2).

B. CMI Engages in Harassment and Abusive Tactics

12. Within the last year, CMI has placed calls to Plaintiff in an attempt to collect the Debt.

13. Plaintiff spoke with CMI on August 10, 2011 about the Debt.

14. CMI told Plaintiff that if he did not reach a payment arrangement with it by the end of the business day, then it would take legal action against Plaintiff. No such action has been taken to date.

1 15. CMI falsely told Plaintiff that he could be arrested for not paying the Debt.

2 16. A CMI representative made representations falsely implying that he was an
3 attorney.
4

5 17. CMI threatened that Plaintiff's wife would be adversely affected if he didn't
6 immediately pay off the Debt.
7

8 **C. Plaintiff Suffered Actual Damages**
9

10 18. The Plaintiff has suffered and continues to suffer actual damages as a result of
11 the Defendants' unlawful conduct.
12

13 19. As a direct consequence of the Defendants' acts, practices and conduct, the
14 Plaintiff suffered and continues to suffer from humiliation, anger, anxiety, emotional
15 distress, fear, frustration and embarrassment.
16

17 20. The Defendants' conduct was so outrageous in character, and so extreme in
18 degree, as to go beyond all possible bounds of decency, and to be regarded as
19 atrocious, and utterly intolerable in a civilized community.
20

21 **COUNT I**
22

23 **VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT**

24 **15 U.S.C. § 1692, et seq.**

25 21. The Plaintiff incorporates by reference all of the above paragraphs of this
26 Complaint as though fully stated herein.
27
28

22. The Defendants engaged in behavior the natural consequence of which was to harass, oppress, or abuse the Plaintiff in connection with the collection of a debt, in violation of 15 U.S.C. § 1692d.

23. The Defendants used profane and abusive language when speaking with the consumer, in violation of 15 U.S.C. § 1692d(2).

24. The Defendants placed calls to the Plaintiff without disclosing the identity of the debt collection agency, in violation of 15 U.S.C. § 1692d(6).

25. The Defendants misrepresented the character, amount and legal status of the debt, in violation of 15 U.S.C. § 1692e(2).

26. The Defendants misled the Plaintiff into believing the communication was from a law firm or an attorney, in violation of 15 U.S.C. § 1692e(3).

27. The Defendants threatened to take legal action, without actually intending to do so, in violation of 15 U.S.C. § 1692e(5).

28. The foregoing acts and omissions of the Defendants constitute numerous and multiple violations of the FDCPA, including every one of the above-cited provisions.

29. The Plaintiff is entitled to damages as a result of the Defendants' violations.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

1 A. Actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against the
2 Defendants;

3
4 B. Statutory damages of \$1,000.00 pursuant to 15 U.S.C.
5 §1692k(a)(2)(A) against the Defendants;

6 C. Costs of litigation and reasonable attorney's fees pursuant to
7
8 15 U.S.C. § 1692k(a)(3) against the Defendants;

9 D. Actual damages from the Defendants for the all damages including
10 emotional distress suffered as a result of the intentional, reckless, and/or
11 negligent FDCPA violations in an amount to be determined at trial for
12 the Plaintiff;

13
14 E. Punitive damages; and

15
16 F. Such other and further relief as may be just and proper.

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18 **TRIAL BY JURY DEMANDED ON ALL COUNTS**

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20
21 DATED: September 27, 2011

LEMBERG & ASSOCIATES, LLC

22
23
24 By: /s/ Kindra Deneau
Kindra Deneau

25
26 Attorney for Plaintiff
Alvaro Mendoza